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RUEHZM/GULF COOPERATION COUNCIL COLLECTIVE PRIORITY

UNCLAS RIYADH 001626

SENSITIVE  
SIPDIS

STATE PASS TO USTR FOR CHRIS WILSON, JASON BUNTIN  
STATE PASS TO DOC FOR STEVEN GARRETT, TOM SAMS, CHERIE  
LOUSTANAU, MICHAEL ROGERS, AND ANDREA CORNWELL  
DEPT FOR NEA/ARP, EB/TPP/BTA, E FOR U/S ROBERT HORMATS

E.O. 12958: N/A  
TAGS: [ETRD](#) [KIPR](#) [ECON](#) [EINV](#) [PREL](#) [SA](#)  
SUBJECT: SAUDI REMOVAL FROM IPR WATCH LIST DURING  
OUT-OF-CYCLE REVIEW ESSENTIAL

REF: A. RIYADH 524  
[B.](#) RIYADH 575  
[C.](#) RIYADH 789  
[D.](#) RIYADH 793  
[E.](#) RIYADH 982  
[F.](#) JEDDAH 297  
[G.](#) RIYADH 1202  
[H.](#) RIYADH 1366  
[I.](#) RIYADH 1375  
[J.](#) RIYADH 1423  
[K.](#) RIYADH 1425  
[L.](#) RIYADH 1426  
[M.](#) RIYADH 1441  
[N.](#) RIYADH 1459  
[O.](#) RIYADH 1493  
[P.](#) RIYADH 1543  
[Q.](#) RIYADH 1544  
[R.](#) RIYADH 1550  
[S.](#) RIYADH 1572

Summary

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[11.](#) (SBU) The Saudi government continues to make progress on copyright and patent protection, including recent accession to two significant patent treaties, following their November 23 on-time submission to the Special 301 Out-of-Cycle Review (OCR) committee. Upon return from the Eid holiday, key SAG officials reiterated their commitment to IPR protection and eagerness to move ahead with our bilateral partnership, in cooperation with the private sector, to pursue constructive, tangible activities like the March 2010 data exclusivity workshop. Post is eager to pursue an ambitious bilateral trade and investment agenda, and failure to remove Saudi Arabia from the Watch List now would damage partnerships key to implementing our interagency IPR agenda. Removal will help us move beyond a confrontational dialogue about problems, and towards a discussion about increasing U.S. investment and jobs in IP-dependent industries here.

Saudis committed to IPR partnership...

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[12.](#) (SBU) Saudi IPR Committee Chairman Mohammad Al-Aiyash told Econoffs December 15 that the Saudi government remains committed at the highest levels to protecting and enforcing intellectual property rights. He said the SAG greatly appreciates its partnership with the private sector and the

USG, emphasizing that "We are one team, working towards the same goals." Al-Aiyash said his government was awaiting a positive outcome from the 2009 OCR, which would help his ministry make further progress in copyright and patent enforcement.

... And eager for industry to submit EMR application

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¶3. (SBU) Local industry representatives lauded Saudi Arabia's October approval of the Exclusive Marketing Rights (EMR) proposal as a significant demonstration of the SAG's commitment to protecting intellectual property in December 14 meetings with Econoff. Al-Aiyash told Econoffs December 15 the IPR Committee was eager to see a company submit an application for EMR protection to King Abdulaziz City for Science and Technology's (KACST) Patent Office. Al-Aiyash asked to be personally informed once an application was submitted so that he could shepherd the application through the process. He reiterated the guidance he provided in November that companies need to specifically apply for EMR protections, which is different and separate from a regular patent application (ref Q). Asked when the six month window for filing applications commenced, Al-Aiyash said the window started when King Abdullah approved the EMR proposal, since the relevant agencies immediately determined an implementation process. He emphasized repeatedly that KACST is ready to accept EMR applications immediately, and indicated he is puzzled they have not already filed an application.

Saudi joins two patent treaties

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¶4. (SBU) The Saudi Ministerial Council on December 14 approved the Kingdom's accession to both the Intellectual Property Owners Association Patent Cooperation Treaty (PCT) and its Implementing Regulations and the Patent Law Treaty (PLT) adopted by the Diplomatic Conference in Geneva on June 1, 2000. Local industry representatives said joining these two treaties was an important development in the patent system of Saudi Arabia. Pharma's chief local patent attorney explained that accession to these two treaties are a significant advance for patent protection in Saudi Arabia. Accession to the Patent Cooperation Treaty is a significant improvement for foreign companies, as this treaty streamlines the patent application, examination and searching processes among the 140 member countries to the treaty. The treaty also allows companies to indicate which other countries they might want to file applications in when they file an initial patent application in one member country (e.g., in the U.S.); they then have 18 months to file the necessary applications in these other countries to gain complete protection. The lawyer explained that this treaty will give foreign companies significantly more time to process their patent applications in Saudi Arabia. The lawyer also noted that it is welcome news that Saudi Arabia acceded to the second treaty, although this is not yet effective in many jurisdictions.

Data exclusivity workshop to inform GCC new law

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¶5. (SBU) Al-Aiyash understood the importance of data exclusivity for companies, and reiterated Saudi Arabia's willingness - indeed eagerness - to learn from the example of how other countries address this issue. The Ministry of Commerce and Industry has continued working closely with the pharmaceutical industry to organize a second workshop on data exclusivity protection in March 2010. The workshop, to be focused on data exclusivity implementation issues, will help the Gulf Cooperation Council (GCC) draft its data exclusivity law, Al-Aiyash said. He said the GCC had already started drafting the law and had formed a committee, all of whom will be invited to attend the March 2010 workshop. Al-Aiyash lamented that this workshop did not take place last November, as SAG officials were ready and looking forward to it.

Referral of copyright case to Board of Grievances

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¶16. (SBU) Following AUSTR Chris Wilson's October 16 - 20 visit, the Saudi Ministry of Culture and Information worked quickly to deliver on the promise to refer a copyright case to the Board of Grievances (BOG). Within three weeks the Ministry conducted raids on two repeat copyright violators, brought both cases to the Violations Review Committee (VRC), conducted investigations, and determined both cases merited referral to the Board of Grievances for deterrent sentencing.

The VRC must hear the testimonies of the accused, who failed to appear three times before the Eid holiday (November 23 to December 5), before they can present the case referrals to Minister of Culture and Information Khoja for approval and transfer of the cases to the Board.

¶17. (SBU) Deputy Minister Abdulrahman Al-Hazzaa, who chairs the VRC and leads the Ministry's copyright enforcement efforts, returned from Eid and an international intellectual property conference on December 10. Al-Hazzaa and IPR Committee Chairman Mohammad Al-Aiyash ensured the participation of two Board of Grievances judges in the international conference, which Al-Aiyash said included several discussions of the importance of strong deterrent sentencing in preventing piracy. Al-Hazzaa told Econoff December 12 that the copyright referrals would be his top priority following the GCC summit in Kuwait, which ends December 15.

Ministry of Commerce and Industry software audit ongoing

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¶18. (SBU) The Ministry of Commerce and Industry's hardware upgrade and software audit is ongoing and due to conclude in the first quarter 2010 (refs H, I, K, O, R, S). The Ministry of Commerce and Industry and the Ministry of Culture and Information agreed to draft a letter for the King's signature recommending all ministries conduct software audits once the Commerce Ministry's audit is complete. Several SAG entities, including the BOG, Ministry of Culture and Information, and SAGIA have already taken steps to ensure they only use legal software.

Ambassador's Note

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¶19. (SBU) The Ambassador strongly recommends Saudi Arabia's removal from the 301 Watch List during the 2009 OCR to promote continued progress and further our bilateral trade and investment agenda. Our Saudi partners have made it clear they would interpret removal as recognition of the effort they have put in this year to advance IPR protection. Far from letting them off the hook for continued progress, Deputy Minister Al-Hazzaa often comments that exit from the Watch List will only make his job busier. Removal will help us move beyond a dialogue about problems and towards a discussion about partnership to increase U.S. investment and jobs in IP-dependent industries here. Waiting until the regular 301 season in April 2010 will undercut the ambitious cooperative trade and investment agenda that we are building including the February Jeddah Economic Forum, the April Entrepreneurship Summit, and the April Business Forum in Chicago. Failure to remove Saudi Arabia from the Watch List during the OCR will also damage key partnerships required to tackle the next area we would like to address in IP, improving our partnership on patent issues. Moreover, the Ambassador believes the next major engagement area by Econ is a focus on contracts, an effort which could pay tremendous dividends if we build on the partnership developed during the IP immersion. Post cannot move to this engagement until the 301 Watch List is resolved. It is critical to the success of our broader trade and investment agenda that agencies support removing Saudi Arabia from the Watch List at the December 22 OCR meeting.

SMITH